

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

)
MONICA HICKMAN,)
)
)
 Plaintiff,)
) **No. 17-cv-2299-SHM-tmp**
v.)
)
OXFORD IMMUNOTEC GLOBAL PLC,)
)
)
 Defendant.)
)
)

ORDER

Before the Court is the Magistrate Judge's Report and Recommendation (the "Report"), dated January 18, 2018. (ECF No. 37.) The Report recommends that Defendant Oxford Immunotec Global PLC's ("Oxford") Motion to Dismiss Plaintiff Monica Hickman's second amended complaint (ECF No. 33) be denied. (*Id.* at 458.)¹ Oxford has not filed an objection, and the deadline to do so has passed. For the following reasons, the Report is ADOPTED, and Oxford's Motion to Dismiss is DENIED.

On April 28, 2017, Hickman filed a pro se complaint against Oxford based on her Equal Employment Opportunity Commission ("EEOC") Charge of Discrimination, alleging discrimination based on race, age, and disability, as well as

¹ Unless otherwise noted, all record citations refer to the PageID number.

retaliation, in violation of Title VII of the Civil Rights Act of 1964. (Compl., ECF No. 1.)²

On May 19, 2017, Hickman filed an amended complaint. (Am. Compl., ECF No. 9.)

On July 21, 2017, Oxford filed a Motion for More Definite Statement. (ECF No. 21.) Hickman responded on August 22, 2017. (ECF No. 30.) United States Magistrate Judge Tu M. Pham granted the Motion for More Definite Statement on October 19, 2017, and ordered Hickman to file an amended complaint by November 15, 2017. (ECF No. 31.)

Hickman filed her second amended complaint on November 13, 2017. (ECF No. 32.) On November 27, 2017, Oxford filed its Motion to Dismiss the second amended complaint for failure to comply with Federal Rules of Civil Procedure 8 & 10. (ECF No. 33.) On December 27, 2017, Hickman responded, and requested leave to file a third amended complaint to comply with Rules 8 & 10. (ECF No. 34.) Oxford replied on January 10, 2018. (ECF No. 35.) On January 18, 2018, the Magistrate Judge granted Hickman leave to file her third amended complaint by January 23, 2018. (ECF No. 36.) Hickman filed a third amended complaint on January 22, 2018. (ECF No. 38.)

² On October 4, 2017, Hickman filed another complaint against Oxford for additional retaliatory acts in violation of Title VII. (Hickman v. Oxford Immunotec Global PLC, 2:17-cv-2734-SHM-tmp, ECF No. 1 (Oct. 4, 2017 W.D. Tenn.).)

Also on January 18, 2018, the Magistrate Judge entered the Report. (ECF No. 37.) It recommends the Court deny Oxford's November 27, 2017 Motion to Dismiss without prejudice. (*Id.* at 459.) The Report explains that:

As the third amended complaint will supersede the second amended complaint, the undersigned recommends that the court deny Oxford's pending motion based on the second amended complaint as moot and without prejudice. See Greenwood v. City of Memphis, No. 14-2442-JDT-TMP, 2014 WL 4966324, at *2 (W.D. Tenn. Oct. 2, 2014) (citing B & H Med., L.L.C. v. ABP Admin., Inc., 526 F.3d 257, 267 n. 8 (6th Cir. 2008)) (other citations omitted). If appropriate, Oxford may renew its motion after Hickman files her amended complaint.

(*Id.*)

Congress enacted 28 U.S.C. § 636 to relieve the burden on the federal judiciary by permitting the assignment of district-court duties to magistrate judges. See United States v. Curtis, 237 F.3d 598, 602 (6th Cir. 2001) (citing Gomez v. United States, 490 U.S. 858, 869-70 (1989)); see also Baker v. Peterson, 67 F. App'x 308, 310 (6th Cir. 2003). For dispositive matters, "[t]he district judge must determine de novo any part of the magistrate judge's disposition that has been properly objected to." See Fed. R. Civ. P. 72(b)(3); 28 U.S.C. § 636(b)(1). After reviewing the evidence, the court is free to accept, reject, or modify the magistrate judge's proposed findings or recommendations. 28 U.S.C. § 636(b)(1). The district court is not required to review -- under a de novo

or any other standard -- those aspects of the report and recommendation to which no objection is made. Thomas v. Arn, 474 U.S. 140, 150 (1985). The district court should adopt the magistrate judge's findings and rulings to which no specific objection is filed. Id. at 151.

Oxford has not objected to the Report. Therefore, the Report should be adopted. See Arn, 474 U.S. at 150-51.

For the foregoing reasons, the Report is ADOPTED, and Oxford's Motion to Dismiss the second amended complaint is DENIED without prejudice.

So ordered this 13th day of February, 2018.

/s/ Samuel H. Mays, Jr.
SAMUEL H. MAYS, JR.
UNITED STATES DISTRICT JUDGE